96TH CONGRESS
1ST SESSION

H. R. 3376

To require that Federal agencies charge a fee for parking at facilities owned or controlled by the United States, and to ban construction or acquisition of parking facilities by Federal agencies, under certain circumstances.

IN THE HOUSE OF REPRESENTATIVES

APRIL 2, 1979

Mr. GRASSLEY introduced the following bill; which was referred to the Committee on Public Works and Transportation

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A BILL

To require that Federal agencies charge a fee for parking at facilities owned or controlled by the United States, and to ban construction or acquisition of parking facilities by Federal agencies, under certain circumstances.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding any other provision of law and except as provided in subsection (b) of this section, each Federal agency that provides parking for motor vehicles at any parking facility owned or controlled by the United States shall charge a fee for such parking which shall be established

by the Secretary of Transportation under subsection (c) of this section.

(b) Subsection (a) of this section shall not apply to the provision of parking for the motor vehicles of—

(1) officers and employees of the United States at places other than their principal place of employment while such officers and employees are performing their official duties;

(2) officers and employees of the United States at their residence, if such residence is located on property owned by the United States; and

(3) individuals conducting business with the United States at places other than their principal place of business.

(c) Within one hundred and eighty days after the date of enactment of this Act, the Secretary of Transportation shall determine the fees to be charged at each parking facility owned or controlled by the United States. Such fees shall approximate the prevailing fees for similar parking facilities in the geographical area in which such parking facility is located.

SEC. 2. (a) Notwithstanding any other provision of law and except as provided in subsection (b) of this section, no Federal agency shall—

(1) construct or contract for the construction of;

(2) alter or contract for the alteration of any real property or building to provide; or

(3) acquire by purchase, donation, exchange, or lease;

any parking facility to be owned or controlled by the United States.

(b) Subsection (a) of this section shall not apply to—

(1) any acquisition of any real property on which, or any building in which, any parking facility is located, if the acquisition of such parking facility is incidental to the primary purpose of the acquisition of such real property or building;

(2) any acquisition of any parking facility by exchange, to the extent that the parking spaces gained by such exchange do not exceed the parking spaces lost by such exchange; and

(3) any acquisition of any real property on which, or any building in which, any parking facility is located, if such parking facility is to be converted to another use and such parking facility is not used to park motor vehicles after the date of acquisition of such parking facility.

SEC. 3. For purposes of this Act—

(1) the term "Federal agency" means any department, agency, commission, board, or other establish-

ment in the executive, legislative, or judicial branch of the United States Government, including any corporation controlled or wholly or partially owned by the United States; and

(2) the term "parking facility" means any facility or any part of any facility designed to provide parking for motor vehicles.

SEC. 4. (a) The provisions of the first section of this Act shall become effective two hundred and ten days after the date of enactment of this Act.

(b) The provisions of section 2 of this Act shall become effective after the last day of the two-year period beginning on the date of enactment of this Act.

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96TH CONGRESS
1ST SESSION

S. 871

To amend the Public Buildings Act to require that parking fees be charged at all parking lots and facilities owned or operated by the United States.

IN THE SENATE OF THE UNITED STATES

APRIL 4 (legislative day, FEBRUARY 22), 1979

Mr. DOMENICI introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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A BILL

To amend the Public Buildings Act to require that parking fees be charged at all parking lots and facilities owned or operated by the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Parking Fees Act of 1979".

SEC. 2. (a) The Congress finds that employees of the United States pay nothing, or only a modest fee, for parking an automobile at work on Federal property, a service for which an employee in private industry usually pays commer-

cial rates. The Congress also finds that such a policy of free or low-cost parking by Federal employees discourages the wide use of mass transit and other energy-efficient modes of transportation.

(b) The Congress, therefore, declares it shall be the policy of the United States to charge the equivalent of commercial parking rates at all parking lots under the control of the United States.

SEC. 3. The Public Buildings Act of 1959, as amended (40 U.S.C. 601–616), is amended by inserting a new section after section 12, and by renumbering subsequent sections accordingly:

"SEC. 13. (a) Beginning on October 1, 1979, a fee for the parking of any automobile or other motorized vehicle used for transporting passengers to and from the place of employment shall be charged at all parking facilities owned, controlled, or operated by any Federal agency. Such fees shall be established at the equivalent of the commercial parking rates prevailing in the general area for similar facilities.

"(b) Funds received under this section shall be used to pay for the operation of such facility and any necessary maintenance. Funds remaining from such fees shall be deposited in the general revenues of the Treasury.

"(c) This section does not apply to parking at military bases or other isolated facilities where no nearby commercial

parking exists. The fees required by this section may be reduced to encourage the use of carpools carrying four or more passengers. This section shall not apply to persons using parking facilities under the control of the United States for business purposes for periods of up to two hours.".

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submitted to the Senate Committee on Veterans' Affairs on August 10, 1978 (Senate Committee Print No. 49, 94th Congress, 2d Session).

On July 11, 1978, the Veterans Administration sent Congress its "Study of Vocational Objective Programs Approved for the Enrollment of Veterans," prepared pursuant to Section 204 of Public Law 94-502 (Senate Committee Print No. 23, 95th Congress; House Committee Print No. 147, 95th Congress). This report contains the most recent compilation of data relative to the effectiveness of the flight and correspondence training programs. It is our view this study supports the conclusion that flight and correspondence training are not achieving their intended purpose, i.e., to help provide a source of continuing substantial professional employment.

For example, in the area of flight training, the study points out that although completion rates are high (an average of 76 percent), graduates are quick to accept very limited, part-time employment for the purpose of free or reduced-rate flying rather than for professional employment. The 50 percent employment requirements of 38 U.S.C. 1673(a) do not specify whether job placement needs to be full-time and we have found that a number of schools, especially flight schools, have used this lack of definition to achieve high placement ratios in technical compliance through the use of graduates as part-time instructors. Thus the study concluded that although placement data for flight schools appear to be high, based on statistics representing technical compliance with the law, in terms of full-time paid jobs, placement is much lower.

The most recent correspondence completion statistics (a 1976 study) indicate that completion rates for vocational courses offered by correspondence averaged as low as 41 percent.

We believe that the ineffectiveness of these two programs in achieving their intended purpose, along with the potential for abuse within the programs, merits their termination.

It is estimated that repeal of authority to pursue flight and correspondence programs would result in direct benefits savings of $57,849,000 in Fiscal Year 1980 and in direct benefits savings over the first 5 fiscal years of $213,509,000.

In the amendment of section 1641 of title 38 (section 401 of the bill), we have deleted references to the flight and correspondence training sections of chapters 34 and 36. In addition, we have added a new reference to section 1663. The effect is to authorize the Veterans' Administration to furnish counseling to those individuals eligible for benefits under this chapter who wish to apply for such assistance. We believe counseling should be made available to these individuals to assure they are pursuing a program of education appropriate to their needs.

TITLE V—REPEAL OF AUTHORITY TO PURSUE PRE-DISCHARGE EDUCATION TRAINING (PREP)

Title V of the draft bill would provide for termination of the Predischarge Education Program (PREP) provided under the chapter 32 contributory education program for servicepersons. The basic authority [38 U.S.C. 1631(b)] would be repealed. In addition those provisions of chapters 34 and 36 containing the authority to carry out the PREP program under chapter 34 are also eliminated. That program was terminated by section 210(5) of Public Law 94-502 by barring any enrollments or reenrollments after October 31, 1976. The provisions of chapter 34 and 36 were left in title 38, however, to form the basis for implementing the chapter 32 program.

Current law (subchapter III of chapter 32, title 38) provides Veterans Administration educational assistance allowances to eligible persons to prepare for their future education, training or vocation by providing them with the opportunity to enroll in and pursue a program of education authorized by subchapter VI of chapter 34 during the last 6 months of the individual's first enlistment.

The Department of Defense administers an All-Volunteer Army. To attract qualified men and women into the all-volunteer military forces, the military services recognize that they must provide effective inducements, among which educational opportunity is one of the most attractive.

The proposal would terminate the Predischarge Education Program prior to the enrollment of any potentially eligible individuals to pursue such courses. The continued need for PREP is no longer apparent. Today the Department of Defense operates viable inservice education programs. These benefits, which range all the way from vocational training through graduate work, are available in the military service.

The Department of Defense concurs in the amendment believing that adequate inservice education programs are available and the continuance of PREP would duplicate efforts of these programs and contribute little to the military mission.

It is estimated that repeal of the auhority to pursue PREP programs would result in direct benefits savings in Fiscal Year 1980 of $1,025,000 and in direct benefits savings over the first 5 fiscal years of $8,241,000.

TITLE VI—MISCELLANEOUS

Section 601 would amend section 3503 of title 38 to delete the exception to the general forfeiture rule found in subsection (d) of current law.

Section 3503 of title 38 provides, in part, that any individual who in any way perpetrates a fraud under any of the laws administered by the VA, except insurance benefits, forfeits any claim or potential claim for VA benefits. Subsection 3503(d) limits the application of forfeiture after September 1, 1959, to individuals residing or domiciled outside a State at the time the act occurred, unless such individual ceases to be a resident or domiciled abroad prior to the statute of limitations tolling for a criminal offense.

Prior to the enactment of Public Law 86-222, effective September 1, 1959, veterans could be subject to forfeiture within a State. Congress felt that the forfeiture procedures subjected an individual to double jeopardy, forfeiture of VA benefits and punishment under the fraud statute. Congress limited forfeiture to offenders living abroad who were outside the jurisdiction of United States courts.

However, subsequent experience demonstrates that such jeopardy is infrequent. The Veterans Administration rarely is able to successfully pursue fraud cases against the debtor. In part this is due to the reluctance of the Department of Justice or the courts to enforce such actions. As a result, a number of veterans do not believe they will be penalized for their fraudulent acts and persist in consciously accepting money under fraudulent circumstances. We believe that the overpayments problem could be remedied, in part, if forfeiture was available as a deterrent.

The effect of the amendment is to reinstate forfeiture where the veteran is residing or domiciled in the United States and obtains educational assistance benefits through fraud by seeking monetary benefits that he or she would not otherwise be entitled to receive from the Government.

TITLE VII—TECHNICAL AMENDMENTS—EFFECTIVE DATE

Section 701 would amend section 1740 of title 38 to insert immediately after "person" the following: "(as defined in section 1701 (a)(1)(A) of this chapter)". This clarification would provide that the special restora- training program authorized by Subchapter V of chapter 35 of title 38 is applicable only to the children of veterans and is not designed to apply to spouses or surviving spouses. This would merely assure that the beneficiaries of the special restorative program are those who are intended to benefit from this program.

Section 702 proposes a technical change in section 1790(b)(2) of title 38. The subsection requires the Administrator to give notice to veterans and eligible persons where action is taken to discontinue benefits to such individuals. We believe it is clear that the correct word to be utilized in the last sentence of the subsection is "for" rather than the word "therefor" which was enacted in section 306, Public Law 95-202.

Section 703 contains two proposed technical changes to be made in specified sections of Public Law 95-202. In enacting subsection (b) of section 305 of that law, Congress inserted four separate clauses. In the first, it provided changes in section 1674 and 1724 of title 38 dealing with regulations to be issued by the Administrator concerning standards of progress. In the second, it called for a study to be made concerning standards of progress. In the third, it authorized the appropriation of $1,000,000 for the conducting of the study provided in clause (2). However, instead of properly citing clause (2), relating to the study, the law inadvertently cited clause (1). This change merely provides the correct citation.

The second proposed correction is an amendment to section 401(a)(1)(B) of Public Law 95-202 and is designed to correct the present language which reads "honor- and" to properly read "honorable". This merely corrects what appears to be a printer's error occurring at the time the enrolled enactment was printed.

Section 704 of the measure provides that its provisions shall take effect on October 1, 1979, or the first day of the second calendar month following the date of enactment, whichever occurs later.●

By Mr. DOMENICI:

S. 871. A bill to amend the Public Buildings Act to require that parking fees be charged at all parking lots and facilities owned or operated by the United States; to the Committee on Environment and Public Works.

PARKING FEES ACT OF 1979

● Mr. DOMENICI. Mr. President, employees of the Federal Government—including U.S. Senators—enjoy benefits that are rightly resented by many taxpayers. One of those goodies is free or very low cost parking at work. At a time when an energy shortage should be sending us in search of ways to encourage a greater use of mass transit, we continue to simply give parking spots away, encouraging Government employees to drive to work. Such a policy is no longer appropriate.

Employees at the headquarters at the General Services Administration here in Washington pay nothing—not a dime—to park at that downtown location. By contrast, people who work at private industry or those Federal employees not lucky enough to rate a spot at the GSA lot and use a commercial lot nearby may pay $60 to $75 a month to park. Is that fair? Does that encourage the use of Washington's spectacular—in appearance and cost—new Metro subway system? I think not.

Of course, some Federal employees are

school could make enrollment reports that are technically accurate, yet the veteran or eligible person should not have been paid because the school or the course does not meet the legal requirements of chapters 34, 35, and 36. If the school knew, or should have known of the defect, it should be, consistent with the congressional intent of section 1785, liable to the VA for the overpayments unless it makes the facts known to the VA.

The section is also amended to indicate that veterans and eligible persons shall report changes in status. The reason for this change is more fully explained in connection with the explanation to section 304 below. The table of cases is amended to reflect the revised headings.

Section 304 amends section 1785 of title 38 to require of veterans and eligible persons the same duties to report changes in status that are now required of educational institutions.

Section 1785 imposes liability directly on the schools for the enumerated acts but no similar explicit duty is required in that section of the veteran or eligible person. We have long provided by regulations that the veteran or eligible person must report changes in status timely and truthfully. The proposed amendment will simply codify this longstanding practice. In each of these two situations direct, explicit statutory provisions should be included in title 38.

Section 1785 is also amended to clarify that the veteran or eligible person and the educational institution are jointly liable to the VA for overpayments. In some cases schools have objected to being held liable for overpayments as to which the veteran is absolved by waiver as authorized by section 3102 of title 38. This amendment codifies traditional practice that the school is not only jointly liable, but that the Federal Government has the legal right to seek its remedy from the school alone, if a veteran has been granted a waiver.

Section 305 amends section 1788(a) of title 38 to codify and clarify the full-time measurement standard embodied in clause (4) of subsection (a) and the category of courses which such standard is intended to embrace.

The amendment limits the application of section 1788(a)(4) to those undergraduate collegiate degree courses pursued in residence on a standard quarter- or semester-hour basis. The term "in residence on a standard quarter- or semester-hour basis" is expressly defined in the amendment as requiring pursuit of regularly scheduled weekly class instruction on campus at the rate of one standard class session per week throughout the semester for one semester hour of credit. This standard traditionally has been followed by the majority of collegiate institutions and remains the generally accepted quantitative measure of course pursuit.

The Congress recognized this tradition when it first established the minimum credit load to be considered full-time pursuit for VA educational benefit purposes. Since it was commonly accepted that each collegiate hour of credit required 1 hour of class and 2 hours of outside preparation each week, the time, resources, and energy required of the student pursuing 14 semester hours warranted the full-time assistance allowance provided. Moreover, such application of time toward educational pursuit roughly equalled that of the full-time student pursuing other forms of training. Thus, a 14-semester hour minimum for full time not only was consistent with full-time measurement standards in the collegiate community, generally, but also was on a par with the pursuit required of noncollege course students for full-time benefits.

The Congress subsequently liberalized the minimum credit load which could be considered full-time in certain circumstances to less than 14 but not less than 12 semester hours or the equivalent. This was done in recognition of a substantial change in certain college enrollment practices and veteran needs. It is important to note, however, that this limited statutory acceptance of a lesser number of credits considered full-time did not affect the character or extent of pursuit which the Congress expected such credits to represent.

The Congress intended that the term "semester-hour" as used in the statute be construed in its traditional sense. And, since the enactment of the Korean conflict GI Bill, the Veterans Administration has consistently interpreted and implemented the statutory course measurement provision for institutional undergraduate courses offered on a quarter- or semester-hour basis in this manner.

However, some within the educational community recently have challenged the VA Administrator's authority to apply the traditional credit-hour measurement standard to "nontraditional" courses which they claim have been structured to meet the special needs of their student population. These schools contend that section 1788(a)(4) requires that the VA pay full-time educational assistance allowance when the school, not the VA, determines that the veteran is a full-time student. They complain that the VA has ignored innovations in educational approach and has unlawfully intruded into their academic affairs. A few have gone to court to prevent the VA from implementing any class session requirements.

We want to emphasize that the VA has not imposed and has no intention of imposing its determination of what constitutes full-time training on any school. We do, however, have both the right and the responsibility to determine the proper statutory rate of benefits which the Congress intended would be paid a veteran based on the nature and extent of such veteran's pursuit of an approved program of education.

Further, the Congress and the VA have taken notice of certain "nontraditional" approaches to education. The Congress, for example, has expressly recognized independent study programs and enacted special provisions governing the rate of educational assistance payable for pursuit of such courses [38 U.S.C. 1682(a)]. Whether other collegiate programs which do not fit the traditional mold are entitled to similar legislative recognition is a matter for congressional determination.

The Administrator's interpretation and implementation of section 1788(a)(4) were recently confirmed in the case of *Wayne State University v. Cleland*, 440 F. Supp. 811 (E.D. Mich. 1977), rev'd & remand'd, Nos. 78-1141, 78-1142 (6th Cir. Dec. 21, 1978). Although this decision by the Sixth Circuit establishes a strong precedent, we believe that a statutory codification of the VA's longstanding policies and practices in determining such course measurement will ensure nationwide uniformity of application and eliminate any further misunderstanding.

Section 306 amends section 1788(a) of title 38 to clarify that the provisions of clauses (1) and (2) thereof which reduce the number of clock hours of attendance required for payment for full-time benefits in the case of courses "approved pursuant to section 1775 of this title" are limited to courses accredited by nationally recognized accrediting agencies.

The legislative history of both section 509 of Public Law 94-502 and section 304 of Public Law 95-202 clearly shows that the Congress, in enacting the mentioned liberalized measurement provisions, intended to limit such measurement to approvals under section 1775(a)(1); i.e., courses accredited and approved by a nationally recognized accrediting agency or association. For example, in the Senate report on S. 969 (S. Rept. No. 94-1243, page 127), which bill was ultimately enacted as Public Law 94-502, it was noted that:

"The Committee, in permitting a reduction in clock hours; expresly excludes supervised study in computing the required number of hours. This new measure is limited to schools accredited by nationally recognized accrediting agencies and approved pursuant to section 1775. The Committee has been assured by representatives of those applicable accrediting bodies that such clock-hour reduction will not result in the diminution of the quality of courses offered. Accordingly, the Committee expressly intends that such accrediting bodies take appropriate measures so that this does not occur. Any evidence to the contrary will result in prompt Committee reevaluation of the amendments made by the section."

The congressional intent was reaffirmed with the further amendment of such provisions by Public Law 95-202. (See H. Rept. No. 95-468, 95th Congress, 1st Session, pages 86-87.) The present amendment simply perfects the expression of such intent.

Section 307 would amend section 1795 of title 38 to provide that limitations on periods of educational assistance under two or more VA programs shall include chapter 32.

Section 1795 limits total entitlement accorded a person eligible under two provisions of law to 48 months. However, subparagraph (4), which was enacted earlier in time, fails to include the new chapter 32 program in this limitation. Thus, a veteran eligible for 36 months of benefits under chapter 32 could also, if eligible, receive an additional 48 months under chapter 31 or 45 more months under chapter 35. The amendment, thus, includes chapter 32 to be consistent with the congressional intent of section 1795 relating to multiple benefits.

Section 308 of the draft bill merely amends chapter 32 to reiterate the change to the rule regarding multiple program eligibility made by section 307.

TITLE IV—REPEAL OF AUTHORITY FOR PURSUIT OF FLIGHT AND CORRESPONDENCE TRAINING

Title IV of the draft bill contains numerous amendments to chapters 32, 34, 35 and 36 of title 38 proposing to terminate the authority for pursuit of flight training by veterans and pursuit of correspondence training by veterans, spouses, and surviving spouses. The changes would repeal the basic authority (sections 1677 and 1786) for pursuing these forms of training and would also eliminate the numerous references made in other sections of title 38.

Chapter 34, title 38, currently provides for payment of 90 percent of the tuition charge to eligible veterans for flight training. Correspondence programs are administered under the provisions of chapter 36 of title 38, which also require the Veterans Administration to pay 90 percent of the established charges. Chapter 32 requires 100 percent reimbursement for individuals training under that program.

Our years of experience in administering education programs for veterans and their survivors convince us that flight and correspondence courses have not fulfilled their intended purpose—helping the beneficiary adjust to his or her changed circumstances by providing the training required for basic employment. In both cases there is ample evidence that the training does not lead to jobs for the majority of trainees and that the courses tend to serve avocational, recreational and/or personal enrichment, rather than basic employment objectives. In this connection see the Veterans Administration study entitled "Training By Correspondence Under The GI Bill, An In-Depth Analysis"

charged for parking. But those charges are minimal, and are intended to pay solely for the operations of the lot. Employees at the Department of Transportation headquarters building, for example, pay $6.85 a month to park.

One of the most blatant examples of free parking is that it is provided to employees right here at the U.S. Capitol where employees of the Senate and House, as well as the Members themselves, park for free. Why should my staff, or why should I, have free parking when people in private industry a block away pay $55 a month for parking? This is a position I have not always endorsed. But the logic of the argument is overwhelming and I have no intellectual option but to admit the inequity of asking the private sector to pay and allowing the public sector a free ride.

The Office of Management and Budget has the authority to direct Federal agencies to charge fees. In the past, I had anticipated OMB would act on this issue without the need for enactment of a law. But OMB has failed to act. The Congress could charge its Members and employees, but it has not.

The bill I am introducing today is very simple. It would require that any employee of the Federal Government who uses any Government owned or operated parking space must pay a parking fee that is equivalent to commercial rates in the area. In an effort to encourage carpooling, my bill permits a lower rate for cars carrying four or more persons. And it is written to assure that a member of the public who visits a Federal building on business will not have to pay.

I think that is a fair and reasonable approach. Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 871

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Parking Fees Act of 1979."

SEC. 2. (a) The Congress finds that employees of the United States pay nothing, or only a modest fee, for parking an automobile at work on Federal property, a service for which an employee in private industry usually pays commercial rates. The Congress also finds that such a policy of free or low-cost parking by Federal employees discourages the wide use of mass transit and other energy-efficient modes of transportation.

(b) The Congress, therefore, declares it shall be the policy of the United States to charge the equivalent of commercial parking rates at all parking lots under the control of the United States.

SEC. 3. The Public Buildings Act of 1959, as amended (40 U.S.C. 601–618) is amended by inserting a new section after section 12, and by renumbering subsequent sections accordingly:

"SEC. 13. (a) Beginning on October 1, 1979, a fee for the parking of any automobile or other motorized vehicle used for transporting passengers to and from the place of employment shall be charged at all parking facilities owned, controlled, or operated by any Federal agency. Such fees shall be established at the equivalent of the commercial parking rates prevailing in the general area for similar facilities.

"(b) Funds received under this section shall be used to pay for the operation of such facility and any necessary maintenance. Funds remaining from such fees shall be deposited in the general revenues of the Treasury.

"(c) This section does not apply to parking at military bases or other isolated facilities where no nearby commercial parking exists. The fees required by this section may be reduced to encourage the use of carpools carrying four or more passengers. This section shall not apply to persons using parking facilities under the control of the United States for business purposes for periods of up to two hours." ●

By Mr. CHAFEE:

S. 872. A bill to amend section 5(e) of the Food Stamp Act of 1977 to increase the amount of the deduction allowed under such section for excess shelter expense, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FOOD STAMP ACT

● Mr. CHAFEE. Mr. President, today I am introducing legislation amending the Food Stamp Act of 1977 to provide for more equitable distribution of benefits to those households suffering from exceedingly high home heating costs.

Spiraling energy costs seriously affect all of us, but particularly the Nation's poor who must spend a large portion of their income to heat their homes, leaving little to cover other basic household necessities such as food, rent, and clothing. The Department of Energy reports that home heating costs are skyrocketing, outpacing overall consumer price rises by 100 percent. For example, from January 1975 to June 1978, home heating oil prices increased 52 percent while overall consumer prices increased 25 percent—and predictions for the future are equally discouraging.

My proposal addresses these rising costs. While I support the intent of the food stamp reforms to improve program efficiency and operation while maintaining fiscal responsibility, the 1977 act's newly imposed excess shelter cost cap fails to reflect the wide regional disparities relative to home heating costs. For example, annual home heating costs in the Northeast are approximately 51 percent higher than in the South and approximately 87 percent greater than costs reported for the Western States. How then does this arbitrary shelter cost cap impact on those States burdened with such energy costs? The overall result has been a drastic reduction in benefits for many households or a change in eligibility status. In my own State of Rhode Island, 60 to 70 percent of the program recipients have lost some of their benefits as a result of the 1977 act and approximately 4 percent of the pre-1977 households will become ineligible for benefits of any kind.

My amendment attempts to alleviate these inequities by increasing the limit on excess shelter cost deductions. Presently, the shelter cost cap stands at $80. My proposal would raise this figure to $105. The shelter cost limit would continue to be adjusted every July 1 and January 1 to reflect changes in the CPI.

Raising the shelter cost deduction recognizes existing regional differences relative to home heating costs and permits those households most vulnerable to rising heating costs to claim a lower net dollar income, thereby qualifying them for an increased allotment of food stamps with which to adequately feed their families. In addition to providing more equitable distribution of benefits, raising the limit, instead of totally removing it, retains an important feature of the food stamp program—fiscal responsibility. While my proposal will require some increase in total program expenditures, I believe it is a necessary measure and one which will underscore the Federal Government's longstanding commitment to help our Nation's poor. ●

By Mr. RIBICOFF (for himself, Mr. BENTSEN, and Mr. TOWER):

S. 873. A bill to amend the Internal Revenue Code of 1954 to waive in certain cases the residency requirements for deductions or exclusions of individuals living abroad; to the Committee on Finance.

Mr. RIBICOFF. Mr. President, I am today introducing legislation to insure fair tax treatment for Americans working overseas who are forced to return to the United States by circumstances beyond their control in the country in which they are working. Senator BENTSEN has worked closely with me in developing this legislation. I am pleased that he and Senator TOWER are cosponsors of this legislation.

At the present time, Americans living and working abroad are eligible to use section 911 or 913 of the Internal Revenue Code. These provisions are intended to offset excess living costs and to provide a modest incentive for Americans to work in hardship cases. In order for a person to qualify to use section 911 or 913, that person must be a bona fide resident of a foreign country or must be present in a foreign country for at least 17 out of 18 months.

It has come to my attention as a result of the recent occurrences in Iran that the above requirement can cause severe injustices in certain situations. For example, a constituent of mine worked in Iran for 14 months and then was forced to return to the United States because of the revolution in Iran. That individual would have stayed in Iran for the required 17 of 18 months but for the disturbances in Iran. As a result of only being there for 14 months, he is prohibited from using the excusion or itemized deductions provided by sections 911 and 913. This is the case even though he was in Iran for the entire 1978 calendar year. He incurred a full year of extraordinarily high housing and living costs but cannot take advantage of the provisions Congress provided so that inflated taxes would not be paid on excess living costs.

The legislation being introduced today corrects this situation by permitting the Secretary of the Treasury to waive the 17 out of 18 month requirement in certain specified situations. The Secretary could grant such a waiver when, after consultation with the Secretary of State, he determines that individuals were required to leave a foreign country because of war, civil unrest, or similar adverse conditions in the foreign country which

precluded the normal conduct of business by the Americans required to leave.

The Secretary's waiver decision would be made with respect to a particular situation in a foreign country. The determination woud not be made based on the situation of individual employees or particular companies. The American worker must have been required to return to the United States because of conditions in the foreign country which made it impossible for Americans to continue normal business operations.

If a waiver were granted in a specific situation, the American worker could deduct expenses deductible under section 913 attributable to the period that the individual was living and working in that foreign country. If an individual is eligible for a flat exclusion (under section 911), that individual would be entitled to the exclusion prorated for the portion of the calendar year spent in the foreign country.

This legislation would be applicable to taxpayers who are required to leave a foreign country after September 1, 1978. Thus, if the Secretary granted a waiver with respect to Iran—and it is contemplated that he will grant such a waiver—this legislation would apply to those Americans who lived and worked in Iran but were forced to leave because of the recent revolution in that country.

There is no requirement in the legislation that the waiver decision be made by the Secretary of Treasury prior to the American employee leaving the foreign country in question. There will be occasions when U.S. citizens will have to decide on their own that a place is unsafe or that it is not possible to continue normal business operations because of disturbances in a country. For foreign policy or other reasons, the decision by the Secretary might be delayed. As long as a waiver is eventually granted by the Secretary and the Secretary is satisfied that the taxpayer left because of the conditions in the foreign country necessitating the waiver, the taxpayer could take advantage of the provisions of sections 911 and 913.

Mr. President, this straight forward legislation corrects a technical problem with sections 911 and 913. These provisions failed to take account of situations where a U.S. taxpayer, before having lived and worked in a foreign country for 17 out of 18 months, is forced to leave that country due to conditions in that country beyond the taxpayer's control. I urge the prompt enactment of this legislation.

Mr. President, I ask unanimous consent that the text of this legislation be printed at this point in the RECORD.

There being no objecion, the bill was ordered to be printed in the RECORD, as follows:

S. 873

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (j) of section 913 of the Internal Revenue Code of 1954 (relating to deduction for certain expenses of living abroad) is amended by adding at the end thereof the following new paragraph:

"(4) WAIVER OF PERIOD OF STAY IN FOREIGN COUNTRY.—For purposes of paragraphs (1) and (2) of subsection (a), an individual who for any period is a bona fide resident of or is present in a foreign country and who—

"(A) leaves such foreign country—

"(i) during any period during which the Secretary determines, after consultation with the Secretary of State or his delegate, that individuals were required to leave such foreign country because of war, civil unrest, or similar adverse condtions in such foreign country which precluded the normal conduct of business by such individuals, and

"(ii) before meeting the requirements of such paragraphs (1) and (2), and

"(B) establishes to the satisfaction of the Secretary that he could reasonably have been expected to have met such requirements,

shall be treated as having met such requirements with respect to that period during which he was a bona fide resident or was present in the foreign country.".

(b) (1) The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1976, but only with respect to periods an individual was a bona fide resident of or present in a foreign country and did not meet the requirements of section 913(a) (1) or (2) of the Internal Revenue Code of 1954 with respect to such periods because he left the foreign country after September 1, 1978.

(2) The Secretary of the Treasury or his delegate may make determinations under section 913(j)(4)(A)(i) of such Code, as added by subsection (a), for any period after September 1, 1978.

(3) In the case of an individual who elects under section 209(c) of the Foreign Earned Income Act of 1978 not to have the amendments made by that Act apply, the Secretary, for purposes of section 911(a)(1) and (a)(2) of the Internal Revenue Code of 1954, as in effect before such amendments, shall apply rules for determining periods of residence or presence in a foreign country similar to the rules provided in section 913(j)(4) of such Code, as added by subsection (a).

● Mr. BENTSEN. Mr. President, I am pleased to join Senator RIBICOFF in cosponsoring legislation to waive, in certain cases, residency requirements for American taxpayers living and working abroad.

Under present law, a citizen is eligible for deductions under section 913 of the IRS Code if he or she is a bona fide resident of a foreign country or countries for an entire taxable year or if they are physically present in a foreign country or countries for 510 days within an 18-month period.

Last year, when we revised the code as it relates to the tax treatment of citizens living and working abroad, we neglected to provide for the crucial contingency of a foreign emergency. When civil unrest in a foreign country necessitates the departure of U.S. personnel, I feel it is unjust to penalize these individuals for circumstances beyond their control.

This bill waives the mandatory period of stay if the Secretary of the Treasury determines that American taxpayers have been required to leave a foreign country because of civil unrest, disturbances, or other adverse conditions which preclude the normal conduct of business by such individuals. The waiver applys to Americans forced to leave their jobs after September 1, 1978.

Mr. President, recent circumstances in Iran provide an excellent example of why we need such legislation. According to State Department figures, there were 42,000 Americans living and working in Iran as of September 1978. By the end of January 1979, this figure has dropped dramatically to approximately 12,000 citizens. Last month, Americans in Iran numbered fewer than 3,000. In other words, almost 40,000 Americans working in Iran were compelled to leave their jobs due to mounting anti-American sentiments and civil disturbances.

As the internal political situation worsened, resulting in the shutdown of American facilities in Iran, Americans left the country in droves only to find themselves ineligible for foreign tax treatment. I believe there is an urgent requirement for legislation to allow those Americans whose employment abroad was prematurely interrupted to maintain their expatriate tax status. No precise estimates are available but it is believed that several thousand Texans will suffer an unexpected financial loss without this needed legislation. In this manner, we will help eliminate some of the hardships these individuals are subject to at the present time.●

By Mr. CRANSTON:

S. 874. A bill to abolish the California Debris Commission; to the Committee on Environment and Public Works.

CALIFORNIA DEBRIS COMMISSION

● Mr. CRANSTON. Mr. President, I introduce for appropriate reference a bill to abolish the California Debris Commission.

This Commission, consisting of three officers of the Army Corps of Engineers, was established in 1893 to regulate hydraulic mining activities in the State. At that time, hydraulic mining was a highly important activity in California. But it resulted in large deposits of silt, sand, and gravel being deposited in the Sacramento and San Joaquin River systems, impairing the usefulness of the stream channels for navigation and flood-carrying purposes. The California Debris Commission was set up to insure that prospective hydraulic mine operators provide adequate debris restraining facilities, or pay for debris storage in reservoirs built by the Federal Government. In addition to this regulatory function, the California Debris Commission was to serve as a construction agency in the building of Federal debris control facilities.

Mr. President, the California Debris Commission has long since fulfilled its mission and serves no useful purpose today. The California Department of Water Resources has recommended that the Commission be abolished. The bill I am introducing would terminate the Commission on September 30, 1979 and transfer any unexpended funds to the Secretary of the Army.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 874

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of The Act of March 1, 1893 (183 Stat. 507*) is hereby amended by adding the following new subsections:

"Sec. 1(b) The California Debris Commission shall be abolished on the last day of

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P&PS

13 APR 1979

MEMORANDUM FOR: Associate Deputy Director for Administration

ATTENTION: Chief, Regulations Control Branch

FROM: James H. McDonald
Director of Logistics

SUBJECT: Publication of Headquarters Notice

It is requested that the attached Headquarters Notice be published as soon as possible.

Signed: James H. McDonald

James H. McDonald

Att

cc: A/DDA

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STAT O-D/L: [redacted] (13 April 1979)

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